UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/CONF.164/35
20 September 1995

ORIGINAL: ENGLISH

UNITED NATIONS CONFERENCE ON
STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
Sixth session
New York, 24 July-4 August 1995

STATEMENT OF THE CHAIRMAN, AMBASSADOR SATYA N. NANDAN, ON 4 AUGUST 1995, UPON THE ADOPTION OF THE AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

We have just adopted an historic instrument. You deserve hearty congratulations.

The instrument we have adopted is far-sighted, far-reaching, bold and revolutionary. It addresses the problems facing the international community in relation to the fisheries for straddling fish stocks and highly migratory fish stocks for which the Conference was requested to find answers. It takes account of the nature of the stocks and calls therefore for action not only at the national level, but also at the subregional, regional and global levels.

The content of the Agreement constitutes a substantive and effective response to the mandate given to the Conference by the General Assembly in its resolution 47/192 of 22 December 1992. Further, the Conference has recommended to the General Assembly to review developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks biennially, beginning in 1997. It has urged States to sign the Agreement and to ratify or accede to it. Thus, the Conference has discharged its mandate.

The provisions of the Agreement are practical and realistic. They are detailed, precise and sound and they are firmly based on the principles enshrined in the 1982 United Nations Convention on the Law of the Sea. The Agreement and the Convention are intrinsically linked and are inseparable. At the same time as the Agreement cannot stand without the Convention, it reinforces the foundation laid by the Convention. In many ways, it better

secures the future of the Convention by dealing with problems raised in its implementation. This shows the dynamic nature of the process set in train by the elaboration of the Convention.

The link between the Agreement and the Convention is reflected not only in the very title of the Agreement and its preamble, but throughout its substantive provisions. Indeed, the negotiations were premised on the approach taken by all participants that the outcome must be in full accord with and build on the Convention.

The Agreement is built on three essential pillars. First, it sets out principles on which conservation and management of the stocks must be based and establishes that such management must be based on the precautionary approach and the best available scientific information.

The second pillar ensures that the conservation and management measures are adhered to and complied with, and that they are not undermined by those who fish for the stocks. For this purpose, the primary responsibility of the flag State is reaffirmed and the framework for action by States other than the flag States is set out with clear safeguards against abuse.

The third pillar is the provision for peaceful settlement of disputes. While providing for various possibilities of non-binding settlement, in the end result every dispute can be submitted to a court or tribunal for a binding decision.

In essence, this Agreement provides for the conservation and sustainable use of the fish resources in the oceans. In place of conflict, it provides a framework for cooperation in the conservation and management of those resources. It promotes the peaceful use of the oceans, a fundamental principle embodied in the 1982 United Nations Convention on the Law of the Sea which itself is derived from the purposes and principles of the Charter of the United Nations.

In providing for a framework that promotes good order in the oceans and the effective management and conservation of high seas resources, the Agreement, inter alia, establishes detailed minimum international standards for the conservation and management of the two types of stocks; ensures that the measures taken for the conservation and management of those stocks in areas under national jurisdiction and in the adjacent high seas are compatible and coherent; ensures that there are effective mechanisms for compliance and enforcement of those measures on the high seas; and recognizes the special requirements of developing States in relation to conservation and management as well as the development and participation in fisheries for the two types of stocks.

I need not remind the Conference that the Food and Agriculture Organization of the United Nations (FAO) has warned that disastrous social and economic consequences await the entire fishing industry unless fishing fleets are reduced in size, subsidies are eliminated and the activities of fishing fleets are more effectively regulated. The international community has waited with expectation for the outcome of this Conference. It is my considered opinion that the Agreement that has been adopted here for the conservation and management of

straddling fish stocks and highly migratory fish stocks provides the necessary basis for the better management of these stocks.

The question might be asked, where would we be without the Agreement that has just been adopted? This is not an easy question to answer, but it is my belief that if we failed to adopt a strong and binding Agreement at this Conference, we would have failed the international community, and in so doing, would have contributed to the further demise of the major international fishery resources. I also believe that failure to agree on a strong and comprehensive regime would have promoted further conflict on the high seas and necessitated and encouraged some States to initiate unilateral action in their frustrated attempts to solve problems that can only be properly addressed multilaterally.

Under the Agreement, the general principles for conservation and management, the application of the precautionary approach and the requirements to set reference levels, the provisions on compatibility of conservation and management measures and the rules on data collection and exchange apply to fisheries within and beyond national jurisdiction. The conservation and management of straddling fish stocks and highly migratory fish stocks must, taking into account their biological unity, be the responsibility of all States concerned in a particular fishery. Improved standards for management are to be applied both within and beyond national jurisdiction. In respect of areas under national jurisdiction, there is an identifiable and accountable authority, that is, the coastal State. The responsibilities of the coastal State are clearly stated in the Convention and these have been further elaborated and reinforced in this Agreement in terms of better management standards and practices that are to be applied.

One of the cornerstones of the Agreement is the provision to ensure compatibility of conservation and management measures throughout the range of stocks. In this sense, the scope of the Agreement is broad enough to embrace resources as a whole, while fully respecting the different jurisdictional responsibilities. No one should escape from the conservation and management principles of the Agreement.

Sound fisheries conservation management requires high-quality data that are comprehensive and available to fisheries managers in a timely manner. The Agreement provides the necessary framework for the collection, provision and exchange of data to ensure proper conservation and management of straddling fish stocks and highly migratory fish stocks.

While acknowledging the consensus reached on the Agreement, we are all very much aware that substantial effort will be required to ensure that its provisions are implemented in a sustained and complete manner. States parties to the Agreement will be required to take specific action at the national level to implement the Agreement. Some States, in particular developing States which lack domestic administrative and financial capacity, will require assistance for this purpose.

The Agreement clearly recognizes the needs of developing States and provides for certain forms of cooperation and the provision of special assistance in order to enable those States to fulfil their obligations. In this

connection, international organizations such as the Food and Agriculture Organization of the United Nations will be called upon to provide important technical assistance in the implementation process. Moreover, it is anticipated that FAO will work closely with its own regional fishery bodies and non-FAO fishery bodies as a means of giving the Agreement practical effect.

Subregional or regional fisheries management organizations or arrangements will continue to play a pivotal role in the conservation and management of straddling fish stocks and highly migratory fish stocks. The Agreement gives prominence to those organizations and arrangements as the principal means for the implementation of measures designed to conserve and manage these two types of stocks. The full cooperation of the international community is imperative for this goal to be achieved.

The political leaders who met at the Rio Summit committed themselves to wide-ranging initiatives that would, inter alia, promote the sustainable use of natural resources, including the important and dwindling fish stocks. Consequently, since the 1992 United Nations Conference on Environment and Development, a number of important and complementary initiatives have been launched. These initiatives have the common goal of seeking to secure enhanced conservation and management of fisheries resources and to ensure that those resources, under all circumstances and in all regions of the world, are utilized in a sustainable manner.

We are indebted to the Food and Agriculture Organization of the United Nations for the technical advice it has provided the Conference. Outside our Conference, FAO is in the final stages of completing the Code of Conduct for Responsible Fisheries. I hope that that work will benefit from the results we have achieved here. The Agreement adopted by this Conference and the Code of Conduct will serve to strengthen conservation and management practice for fisheries around the world. The willingness of the international community to commit itself to these initiatives clearly illustrates the concern and goodwill of all States to achieve lasting measures to address the crises being faced in world fisheries.

I am greatly indebted to the Vice-Chairmen who have supported me so ably throughout this Conference. They have provided encouragement and advice at difficult times and made my role as Chairman all the easier.

I wish to pay special tribute to my colleagues from the Pacific - Peniasi Kunatuba, Mary Harwood, Michael Lodge and Talbot Murray. Their assistance to me has been unstinting and selfless. Without them, my own contribution would have been lacking. I wish to acknowledge their outstanding contribution to this Conference.

I must also pay tribute to those from the Secretariat who have assisted me throughout the Conference. I would like to pay particular attention to the Legal Counsel, Mr. Hans Corell, and the Director of the Division for Ocean Affairs and the Law of the Sea, Mr. Jean-Pierre Levy; Mr. Moritaka Hayashi, Secretary of the Conference; to my Secretary, Ms. Cynthia Hardeman; to Ms. Josefa Velasco, Ms. Gabriele Göttsche, and to Messrs Vladimir Jares, Maurice Jorgens and André Tahindro, and the other members of the Secretariat,

including those from Conference Services, who have assisted the Conference. I also acknowledge the assistance provided to me by Dr. David Doulman of FAO.

You should feel satisfied and proud of the results which we have achieved together at this Conference. The issues we had to deal with were real and sensitive and needed the urgent attention of the world community. You responded to this challenge in a constructive and practical manner. We have had among us lawyers, fisheries experts, representatives of intergovernmental and non-governmental organizations, including industry and conservation interests. All have had access to the process. Even in the smallest consultations, all have been able to participate and all have actively contributed. We have set a model for the interaction of the various interests involved in diplomatic negotiations.

You have conducted these negotiations in a practical and serious manner, free from rancour and polemics. As could be expected, we began these negotiations with trepidation as to the best way to fulfil our mandate, and as to the form in which the results would best be reflected.

As we became acquainted with the issues and each other's preoccupations, we became ever more convinced of the obvious fact that the problems were common, and also became confident that we could succeed in dealing with them as such. We recognized that it was in our interest to achieve a result which would not allow us to continue "business as usual".

As we went along, individual States became more and more committed to the process. The result we have achieved today reflects a strong common purpose - the long-term sustainability of fishery resources.

As individuals, you have demonstrated your dedication to this purpose. You have served your Governments and your people well, and as citizens of the world, you have earned the gratitude of present and future generations.

Our countries may be dispersed all over the globe, but we are joined together by one ocean. We must protect and preserve the ocean environment and its resources. In this connection, we should recall the origins of this Conference in the Rio Conference on Environment and Development.

We must now proceed to the rapid implementation of this Agreement. Governments must demonstrate their commitment in a tangible manner by signing the Agreement and becoming parties to it as early as possible.

It was a great personal honour for me to have been elected Chairman of the Conference. I deeply appreciate the confidence shown by delegations in electing me to this important office. I have endeavoured to meet your expectations. If I have been inconsiderate in keeping a high pace and late nights, and in driving you hard, it is because I knew that you shared with me the deep sense of commitment to the cause and the goal we set for ourselves. It has been a great pleasure and privilege for me to work with such distinguished and highly competent old and new friends and colleagues. We the veterans of the Third Law of the Sea Conference had a tendency to wax nostalgic about our participation there but we are in turn heartened by the promise and dedication of the new

generation and are confident that you will continue the ideals which motivated those of us who were privileged to be involved with the law of the sea.